

regard to the embodiment of Fig 1A, a light transmissive substrate 14 provided with a color shifting optical coating 16 comprising the absorber layer 18, dielectric 20 and a reflector 22. This color shifting coating provides a shifting color depending upon the angle of incidence of the eye of the observer. The structural elements recited in independent claim 1 are not found in Bonkowski et al. and, as acknowledged by examiner, in particular, Bonkowski et al. does not disclose applicants claimed outer layer of a single color substantially transparent polymeric material.

Harelstad et al. discloses durable fluorescent organic pigments and methods of making the same. More particularly, Harelstad et al. discloses fluorescent pigment particles which may be used as retroreflective elements such as those used for pavement marking and alike. Nowhere in Harelstad et al. is there a teaching of applicants claimed "outer layer of single color substantially transparent polymeric material mounted to one of the opposed surfaces of a layer of transparent polymeric material having a surface provided with a plurality of parallel ridges and grooves." Figs 1A and 1B of Harelstad et al. disclose pigments 10A and 10B including a retroreflective member 12 having a first major retroreflective surface 13 and a second opposing microstructured surface 14 and a reflective coating 16. The microstructured surface 14 is described as containing, the well known, retroreflective elements such as prisms or cubes which, as is known, reflect back, or directly reflect back, incident light.

The structure of Harelstad et al., the same as Bonkowski et al., is not the structure recited in independent claim 1 and cannot produce applicants claimed function of producing an appearance other than that of a surface of a layer of transparent polymeric material and an image other than one coincident with the opposed surfaces of the layer of transparent polymeric material.

Further, Harelstad et al. does not disclose applicants claimed single color substantially transparent outer layer of polymeric material. More particularly the specific references to Harelstad et al in the Office Action do not teach an outer layer of single color substantially transparent polymeric material. At column five, line 16-18 there is merely a teaching of a single fluorescent dye or colorant that may be used or a combination of one or more fluorescent dyes and one or more conventional colorants to create fluorescent articles-no teaching is found of a single layer, of a single color, of substantially transparent polymeric material. At column seven, lines 45-47 there is merely a teaching that all of the polymers and various members of the retroreflective article may contain adjuvants for various purposes, colorants, UV absorbers, fluorescent dyes etc. No teaching of a single layer of a single color of substantially transparent polymeric material is found.

Accordingly it is respectfully submitted that the claimed layers of material defined in applicant's sole independent claim 1 are found neither in Bonkowski et al. or Harelstad et al., either alone, or in combination. Thus it is submitted that Applicant's independent claim 1, and the claims dependent thereon, are not rendered obvious by Bonkowski et al. in view of Harelstad et al.

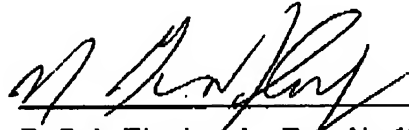
Assuming for the sake of argument, that Harelstad et al. were to disclose an outer layer of single color substantially transparent polymeric material, the combination of such a

layer with Bonkowski et al. would be a legally impermissible hindsight rejection and a prohibited mosaic pieced together by cannibalizing independent elements found in Bonkowski et al. with an independent element in Harelstad et al., such a combination is contrary to established law for rejections under 35 U.S.C. 103 (a).

When applicant's invention defined by independent claim 1 is taken as a whole, such is not found either in Bonkowski et al., or Harelstad et al., or the combination of these references. "Something in the prior art as a whole must suggest the desirability and thus the obviousness of making the combination." Lindemann Maschinen Fabrick GmbH American Holst and Derrick Co., 780 F. 2D 142,14262,221 U.S.P.Q. 481,488 (Fed. Cir. 1984). Further, "It is impermissible to use the claims as a frame and the prior references as a mosaic to piece together a facsimile of the claimed invention." Unirol, Inc. v. Rudkin-Wiley Corp., 437 F. 2D 1044 (Fed. Cir. 1988). Thus, in view of such cited law, it is submitted that the combination of Bonkowski and Harelstad et al., or Harelstad et al. to reject Applicant's claimed invention would be contrary to controlling law for a proper claim rejection under 35 U.S.C. 103 (a).

Accordingly, in view of the foregoing, it is respectfully submitted that claims 1, 3-5, and 8-12 are patentable over Bonkowski et al. and Harelstad et al. under 35 U.S.C. 103 (a) and their allowance is respectfully requested.

Respectfully submitted,



R. Gale Rhodes, Jr., Reg. No 19,833
Of Counsel to Moser IP Law Group
1040 Broad Street, 2nd Floor
Shrewsbury, New Jersey 07702
(732) 978-4897 – Phone
(732) 935-7122 – Facsimile
Attorney for Applicant(s)